

1 MR. BERNICK: Well, Your Honor, I'm happy to
2 accommodate Dr. Brody. I've never met the guy, happy to
3 accommodate that. I do not want the doctor stuff to slip. So
4 if we can do Brody on Tuesday morning or whatever, I want to do
5 the doctor stuff Tuesday after and I want to get it done.

6 THE COURT: Well --

7 MR. INSELBUCH: We have no problem with that.

8 THE COURT: -- how long is Dr. Brody going to take?

9 UNIDENTIFIED ATTORNEY: -- on direct.

10 MR. FINCH: I would guess two to two and a half
11 hours, Your Honor.

12 UNIDENTIFIED ATTORNEY: On direct.

13 THE COURT: That means he's going to be all day. So
14 it just means he's going to be all day.

15 MR. INSELBUCH: It may be that Mr. Bernick won't have
16 any smart questions.

17 MR. BERNICK: We got an estimate for Dr. Brody for
18 one hour.

19 THE COURT: It doesn't matter. It means he's going
20 to be all day. Let's just face it. Every doctor is going to
21 take all day. That's just the way it's going to be.

22 MR. BERNICK: Well, Your Honor, I'm very -- you know,
23 at that point we may then need the Court's intervention because
24 we are not going to finish this trial in any way, shape or form
25 by the time that Mr. Inselbuch and Mr. Finch --

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1 THE COURT: This is my ruling. I have you folks for
2 as long as I need you. I don't care who else has you next.
3 That's my rule. You folks are with me until you're done and I
4 don't care if it takes until next year. You are here for every
5 single day that I need you until we're finished. That's my
6 order. And you will be held in contempt if you're not present
7 on the days that I need you. We're started. We're going to
8 finish this. That's it. You make whatever other plans you
9 need to make with any other Court. I will accommodate personal
10 schedules. I will accommodate weddings, deaths and births and
11 occasionally a vacation if they're accompanied with a wedding,
12 a death and a birth. That's it. Anything else, you're mine.

13 MR. BERNICK: That's fine, Your Honor. So we will
14 confer and we will under any set of circumstances do Rule 408
15 before we hear testimony from Dr. Florence which is --

16 THE COURT: All right, so we'll do 408 and Dr.
17 Florence Monday. We will do Dr. Brody Tuesday and we will then
18 revert to the debtor's case on Monday, April 7th, and start
19 back with the doctors. That will give you time perhaps to
20 limit these deposition issues anyway. And I don't like to take
21 the things out of turn either but that's just how we'll do it.

22 MR. INSELBUCH: That's fine.

23 THE COURT: And the debtor -- and I take it that the
24 ACC and the FCR will agree that the debtor does not have to
25 rest before you can put your witness on.

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1 MR. INSELBUCH: Of course, Your Honor.

2 THE COURT: I want to hear it from the FCR too.

3 UNIDENTIFIED ATTORNEY: Say yes.

4 MR. MULLADY: Yes.

5 THE COURT: Thank you.

6 MR. BERNICK: And we're tentatively on for the 22nd
7 for ZAI subject to hearing about the --

8 THE COURT: Correct.

9 MR. BERNICK: -- hearing about Mr. --

10 THE COURT: -- Westbrook.

11 MR. BERNICK: -- Westbrook's other vacation plans?

12 THE COURT: Yes, sir. Okay, so --

13 MR. BERNICK: Okay, I think that that's it, Your
14 Honor.

15 THE COURT: All right, so we're adjourned until
16 Monday. Do you want to start earlier on Monday than nine?

17 MR. BERNICK: I don't think so and --

18 THE COURT: To start with the 408 argument, do you
19 want to start at --

20 MR. BERNICK: We'd be happy to start with the 408
21 argument at nine or earlier. We're all going to be here.

22 MR. INSELBUCH: Whatever time Your Honor is
23 comfortable with. We're all here the night before.

24 THE COURT: I live here. It's the people coming in
25 from the west --

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1 MR. INSELBUCH: I understand that, Your Honor.

2 THE COURT: -- you know, that's the problem.

3 MR. INSELBUCH: We're here the night before. You
4 just tell us when you want us here. As you have said, you own
5 us.

6 THE COURT: Well, okay, but I want you not sleepy
7 too. Okay, you want to start at 8:30 --

8 MR. BERNICK: That's the first time I've ever heard
9 Elihu say that.

10 THE COURT: I don't know if -- you know, if 8:30
11 helps, I'll have my staff in at 8:30. If it doesn't help, then
12 we'll start at nine. You tell me.

13 MR. FINCH: There's one other housekeeping matter --

14 THE COURT: Wait. I want an answer.

15 MR. FINCH: Sorry. Oh, sure.

16 THE COURT: 8:30 or nine, folks?

17 UNIDENTIFIED ATTORNEY: Mr. Bernick?

18 THE COURT: 8:30 or nine on Monday, Mr. Bernick?

19 MR. BERNICK: 8:30 is fine.

20 THE COURT: Fine, we'll start at 8:30 --

21 MR. INSELBUCH: 8:30.

22 THE COURT: -- and we'll start with the argument,
23 okay.

24 MR. BERNICK: The other thing is we have spent a long
25 time trying to develop order. As part of our case, we gave

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1 them an order well in advance and we have stuck to it
2 absolutely religiously. Today I don't know what their witness
3 order is beyond Mr. Brody -- Dr. Brody. I heard Ms. Welch but
4 I don't know whether she's going to be available now the
5 following --

6 THE COURT: Okay, get them a witness --

7 MR. BERNICK: And they've given us a list of 20
8 people --

9 THE COURT: Get a witness order, folks, please to --

10 MR. BERNICK: A real one.

11 MR. FINCH: Your Honor, we filed our witness order on
12 March the 14th which is our best estimate of the witnesses we
13 would call and the order. We will confer to see if there are
14 any changes based on the fact that the debtor finishes his
15 case.

16 THE COURT: Okay, update it because you know the
17 debtor is going to finish but for these depositions on Monday.

18 MR. FINCH: I understand that.

19 THE COURT: So update it at least -- today is
20 Wednesday. Update that witness list not later than Friday if
21 there are going to be any changes.

22 MR. BERNICK: Just to be clear with my point, it's
23 not just the order. It's who they're really going to call. We
24 gave them a tight list so they didn't have to go to the
25 exercise of preparing for a lot of people who are never going

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1 to appear.

2 THE COURT: Okay, that's fair.

3 MR. BERNICK: And right now their list goes on.

4 THE COURT: That's fair. Get the list down to who
5 you're really calling by Friday.

6 MR. INSELBUCH: Yes, ma'am.

7 THE COURT: Thank you. Okay, Mr. Finch?

8 MR. FINCH: There was one further housekeeping
9 matter.

10 THE COURT: All right.

11 MR. FINCH: Yesterday in connection with --

12 THE COURT CLERK: Please use the microphone.

13 MR. FINCH: Nathan Finch for the ACC. Yesterday in
14 connection with admitting the summary charts as to which there
15 was no objections, I -- rule of completeness, a particular
16 exhibit ought to come into evidence with the summary charts
17 about the Manville trust data, about doctors. Mr. Bernick has
18 agreed. There's no objection to that exhibit. I'd like to
19 offer into evidence -- the document has been marked as Grace
20 Exhibit 155 and tender that to the Court.

21 THE COURT: All right.

22 MR. BERNICK: We have no objection to that.

23 THE COURT: Okay, I'll take it. And this is just
24 another exhibit that does not require a witness, is that
25 correct?

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1 MR. BERNICK: That's correct.

2 MR. FINCH: This is a business record of the Manville
3 trust. It doesn't require a witness.

4 THE COURT: All right, thank you. It's admitted.

5 MR. FINCH: Thank you.

6 THE COURT: Okay, anything else, folks?

7 UNIDENTIFIED ATTORNEY: No.

8 THE COURT: All right, drive safely please.

9 MR. FINCH: Thank you, Your Honor.

10 THE COURT: I have no sway with any police officers,
11 let me tell you.

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C E R T I F I C A T I O N

We, ELAINE HOWELL, PAT REPKO, TAMMY DeRISI, LYNN SCHMITZ and MARY L. POLITICO, court approved transcribers, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above entitled matter, and to the best of our ability.

/s/ Elaine Howell

ELAINE HOWELL

/s/ Pat Repko

PAT REPKO

/s/ Tammy DeRisi

TAMMY DeRISI

/s/ Lynn Schmitz

LYNN SCHMITZ

/s/ Mary L. Polito

DATE: March 31, 2008

MARY L. POLITICO

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